

SENATE BILL No. 175

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-19-4.5; IC 21-2-11.6; IC 21-3-1.7.

Synopsis: School referendum tax levies. Provides that if an excessive levy referendum is approved, a school corporation may impose a referendum tax levy that is separate from the general fund tax levy. Provides that voters may reimpose or extend a referendum tax levy through the referendum process but may not approve a referendum tax levy that is imposed for more than seven years. Does not include the referendum tax levy in the determination of state tuition support or maximum general fund tax levy.

Effective: January 1, 2003.

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January 7, 2002, read first time and referred to Committee on Finance.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 175

A BILL FOR AN ACT to amend the Indiana Code concerning education finance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-19-4.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4.5. (a) With
3 respect to every appeal petition that is delivered to the tax control board
4 by the ~~state board of tax commissioners~~ **department of local**
5 **government finance** under section 4.1 of this chapter and that includes
6 a request for emergency financial relief (except an appeal petition
7 described in section 4.7 of this chapter), the tax control board shall,
8 after having made the study of the appeal petition and related materials
9 that the tax control board considers necessary, make an appropriate
10 recommendation to the ~~state board of tax commissioners~~ **department**
11 **of local government finance**. If the appeal petition requests an
12 excessive tax levy under subsection (c), the tax control board shall
13 expedite the board's review as necessary to permit the referendum to be
14 conducted without a special election. In respect of the appeal petition,
15 the tax control board may make to the ~~state board of tax commissioners~~
16 **department of local government finance** any of the recommendations
17 described in section 4.4(a) of this chapter, subject to the limitations

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described in section 4.4(b) of this chapter.

(b) In addition, if the tax control board concludes that the appellant school corporation cannot, in the ensuing calendar year, carry out the public educational duty committed to the appellant school corporation by law if, for the ensuing calendar year, the appellant school corporation does not receive emergency financial relief, the tax control board may recommend to the ~~state board of tax commissioners~~ **department of local government finance** that the order of the county board of tax adjustment or the county auditor in respect of the budget, tax levy, or tax rate of the appellant school corporation be approved, or disapproved and modified, as specified in the tax control board's recommendation and that the appellant school corporation receive emergency financial relief from the state, on terms to be specified by the tax control board in the board's recommendation, in the form of:

- (1) a grant or grants from any funds of the state that are available for such a purpose;
- (2) a loan or loans from any funds of the state that are available for such a purpose;
- (3) permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;
- (4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;
- (5) permission to the appellant school corporation to:
 - (A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's cumulative building fund; or
 - (B) use, for general fund purposes, any unobligated balance in the appellant school corporation's cumulative building fund and the proceeds of any levy made or to be made by the appellant school corporation for the appellant school corporation's cumulative building fund;
- (6) permission to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or
- (7) a combination of the emergency financial relief described in subdivisions (1) through (6).

(c) In addition to, or in lieu of, any recommendation that the tax control board may make under this section, the tax control board may recommend that the appellant school corporation be permitted to make

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1 ~~an excessive a referendum~~ tax levy for the ensuing calendar year
 2 **under this subsection.** The recommendation may not be put into effect
 3 until a majority of the individuals who vote in a referendum that is
 4 conducted in accordance with the following requirements approves the
 5 appellant school corporation's making ~~an excessive a referendum~~ tax
 6 levy for the ensuing calendar year:

7 (1) Whenever:

8 (A) the tax control board recommends to the ~~state board of tax~~
 9 ~~commissioners~~ **department of local government finance** that
 10 the appellant school corporation be permitted to make ~~an~~
 11 ~~excessive a referendum~~ tax levy for the ensuing calendar year
 12 if a majority of the individuals voting in a referendum held in
 13 the appellant school corporation approves the appellant school
 14 corporation's making ~~an excessive a referendum~~ tax levy;

15 (B) the ~~state board of tax commissioners~~ **department of local**
 16 **government finance** gives the board's written approval of the
 17 recommendation; and

18 (C) the appellant school corporation requests that the tax
 19 control board take the steps necessary to cause a referendum
 20 to be conducted;

21 the tax control board shall proceed in accordance with this
 22 subsection.

23 (2) The question to be submitted to the voters in the referendum
 24 must read as follows:

25 "For the __ (insert number) calendar year **or years**
 26 immediately following the holding of the referendum, shall the
 27 school corporation impose a property tax rate that does not
 28 exceed _____ (insert amount) cents (\$0. __) (insert
 29 amount) on each one hundred dollars (\$100) of assessed
 30 valuation and that is in addition to the school corporation's
 31 normal tax rate?".

32 **The voters in a referendum may not approve a referendum**
 33 **tax levy that is imposed for more than seven (7) years.**
 34 **However, a referendum tax levy may be reimposed or**
 35 **extended under this subsection.**

36 (3) The tax control board shall act under IC 3-10-9-3 to certify the
 37 question to be voted on at the referendum to the county election
 38 board of each county in which any part of the appellant school
 39 corporation lies. Each county clerk shall, upon receiving the
 40 question certified by the tax control board, call a meeting of the
 41 county election board to make arrangements for the referendum.
 42 The referendum shall be held in the next primary or general

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election in which the residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the tax control board, the referendum shall be held at a special election to be conducted not less than sixty (60) days after the question is certified to the circuit court clerk or clerks by the tax control board. The appellant school corporation shall advise each affected county election board of the date on which the appellant school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the appellant school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. ~~and IC 20-5-12.~~ If the referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

(4) Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

(5) The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

(6) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the tax control board. Upon receiving the certification of all of the votes cast in the referendum, the tax control board shall promptly certify the result of the referendum to the ~~state board of tax commissioners~~ **department of local government finance**. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the ~~state board of tax commissioners~~ **department of local government finance**, upon

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being notified in the manner described in this subsection of the result of the referendum, shall take prompt and appropriate steps to notify the appellant school corporation that the appellant school corporation is authorized to collect, for the calendar year that next follows the calendar year in which the referendum is held, ~~an excessive a referendum~~ tax levy not greater than the amount approved in the referendum. The ~~excessive referendum~~ tax levy shall become the adjusted base levy for that **may be imposed for the number of** calendar year years approved by the voters following the referendum for the school corporation in which the referendum is held. ~~unless the question upon which the voters voted at the referendum has been framed to preclude the excessive tax levy from becoming the adjusted base levy of the school corporation.~~ **If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's maximum general fund tax levy under this chapter and IC 21-3-1.7.** If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy.

(d) With respect to any school corporation to which a loan or advance of state funds is made under this section, or for which such a loan or an advance is recommended, for purposes other than the purpose specified in section 4.7 of this chapter, the tax control board may recommend to the ~~state board of tax commissioners~~ **department of local government finance** that the school corporation be authorized, for a specified calendar year, and solely for the purpose of enabling the school corporation to repay the loan or advance, to collect an excessive tax levy. A recommendation under this subsection must specify the amount of the recommended excessive tax levy. Upon receiving the recommendation from the tax control board, and without any other proceeding, the ~~state board of tax commissioners~~ **department of local government finance** may authorize the school corporation, for a specified calendar year, to make an excessive tax levy in accordance with the recommendation of the tax control board or in accordance with a modification of the recommendation that the ~~state board of tax commissioners~~ **department of local government finance** determines



is proper. Whenever the ~~state board of tax commissioners~~ **department of local government finance** exercises the power given to the ~~state board of tax commissioners~~ **department of local government finance** under this subsection, the ~~state board~~ **department of local government finance** shall, in the ~~state board's~~ **department of local government finance's** order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that so much of the proceeds of the excessive tax levy as should be used for loan repayment purposes is not used for any other purpose. The ~~state board of tax commissioners~~ **department of local government finance** may not exercise the power described in this subsection to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

SECTION 2. IC 21-2-11.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

Chapter 11.6. Referendum Tax Levy Fund

Sec. 1. As used in this chapter, "school corporation" has the meaning set forth in IC 21-2-11-1.

Sec. 2. As used in this chapter, "governing body" has the meaning set forth in IC 21-2-11-1.

Sec. 3. (a) The governing body of each school corporation for which a referendum tax levy is approved under IC 6-1.1-19-4.5(c) shall establish a referendum tax levy fund.

(b) A school corporation may impose a referendum tax levy in the amount allowed under IC 6-1.1-19-4.5(c) for the school corporation.

(c) Property tax collections from a school corporation's referendum tax levy shall be deposited in the referendum tax levy fund. Money in the fund may be used for any lawful school expenses.

SECTION 3. IC 21-3-1.7-3.1, AS AMENDED BY P.L.291-2001, SECTION 240, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

(1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:

- (A) special education grants;
- (B) vocational education grants;
- (C) at-risk programs;



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- 1 (D) the enrollment adjustment grant;
- 2 (E) for 1999 and thereafter, the academic honors diploma
- 3 award; and
- 4 (F) for 2001 and thereafter, the primetime distribution;
- 5 for the year that precedes the current year; plus
- 6 (2) the school corporation's tuition support levy for the year that
- 7 precedes the current year before the reductions required under
- 8 section 5(1) **and** 5(2) ~~and 5(3)~~ of this chapter; plus
- 9 (3) distributions received by the school corporation under
- 10 IC 6-1.1-21.6 for the year that precedes the current year; plus
- 11 (4) the school corporation's excise tax revenue for the year that
- 12 precedes the current year by two (2) years; minus
- 13 (5) an amount equal to the reduction in the school corporation's
- 14 tuition support under subsection (b) or IC 20-10.1-2-1, or both.

15 (b) A school corporation's previous year revenue shall be reduced
16 if:

- 17 (1) the school corporation's state tuition support for special or
- 18 vocational education was reduced as a result of a complaint being
- 19 filed with the department of education after December 31, 1988,
- 20 because the school program overstated the number of children
- 21 enrolled in special or vocational education programs; and
- 22 (2) the school corporation's previous year revenue has not been
- 23 reduced under this subsection more than one (1) time because of
- 24 a given overstatement.

25 The amount of the reduction equals the amount the school corporation
26 would have received in tuition support for special and vocational
27 education because of the overstatement.

28 SECTION 4. IC 21-3-1.7-5, AS AMENDED BY P.L.273-1999,
29 SECTION 132, IS AMENDED TO READ AS FOLLOWS
30 [EFFECTIVE JANUARY 1, 2003]: Sec. 5. As used in this chapter,
31 "tuition support levy" means with respect to a school corporation for a
32 year the maximum general fund ad valorem property tax levy for the
33 school corporation determined under IC 6-1.1-19-1.5 reduced by the
34 following:

- 35 (1) An amount equal to the annual decrease in federal aid to
- 36 impacted areas from the year preceding the ensuing calendar year
- 37 by three (3) years to the year preceding the ensuing calendar year
- 38 by two (2) years.
- 39 (2) ~~The original amount of any excessive tax levy the school~~
- 40 ~~corporation imposed as a result of the passage, during the~~
- 41 ~~preceding year, of a referendum under IC 6-1.1-19-4.5(c) for~~
- 42 ~~taxes first due and payable during the year.~~



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(2) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

SECTION 5. IC 21-3-1.7-6.8, AS AMENDED BY P.L.291-2001, SECTION 94, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6.8. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:

STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(b) of this chapter minus the result determined in STEP ONE of the formula in section 6.7(b) of this chapter is greater than zero (0). Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the result determined in STEP ONE of the formula in section 6.7(b) of this chapter from the amount determined in STEP FIVE of the formula in section 6.7(b) of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP TWO: This STEP applies only if the amount determined in STEP FIVE of the formula in section 6.7(b) of this chapter is equal to STEP ONE of the formula in section 6.7(b) of this chapter and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The original amount of any excessive tax levy the school

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corporation imposed as a result of the passage, during the preceding year, of a referendum under IC 6-1.1-19-4.5(c) for taxes first due and payable during the year.

(iii) (ii) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of:

(A) ninety-one and eight-tenths cents (\$0.918) in 2002; and

(B) ninety-five and eight-tenths cents (\$0.958) in 2003; and

if applicable, the STEP ONE or STEP TWO result.

SECTION 6. IC 21-3-1.7-8, AS AMENDED BY P.L.291-2001, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

(A) For a school corporation not described in clause (B), determine the school corporation's result under STEP FIVE of section 6.7(b) of this chapter for the calendar year.

(B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount under STEP ONE (A) of section 6.7(b) of this chapter, determine the sum of:

(i) the school corporation's result under STEP ONE of section 6.7(b) of this chapter for the calendar year; plus

(ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus

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1 (iii) the original amount of an excessive tax levy the school
 2 corporation imposed as a result of the passage, during the
 3 preceding year, of a referendum under IC 6-1.1-19-4.5(c) for
 4 taxes first due and payable during the year; plus

5 (iv) (iii) the part of the maximum general fund levy for the
 6 year that equals the original amount of the levy imposed by
 7 the school corporation to cover the costs of opening a new
 8 school facility during the preceding year.

9 STEP TWO: Determine the remainder of:

10 (A) the STEP ONE amount; minus

11 (B) the sum of:

12 (i) the school corporation's tuition support levy; plus

13 (ii) the school corporation's excise tax revenue for the year
 14 that precedes the current year by one (1) year.

15 If the state tuition support determined for a school corporation under
 16 this section is negative, the school corporation is not entitled to any
 17 state tuition support. In addition, the school corporation's maximum
 18 general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount
 19 of the negative result.

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